



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 13, 2010

Ms. Jennifer C. Cohen  
Assistant General Counsel  
Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2010-13838

Dear Ms. Cohen:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 393668 (ORA# 10-1451).

The Department of Public Safety (the "department") received a request for information pertaining to two investigations involving the requestor. You indicate you have released information pertaining to one of the investigations. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

You seek to withhold the submitted information under section 552.101 in conjunction with section 411.00755 of the Government Code. We note this office recently issued Open Records Letter No. 2010-12863 (2010), a previous determination authorizing the department to withhold personnel records of commissioned officers of the department under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code, unless the exceptions to confidentiality listed in

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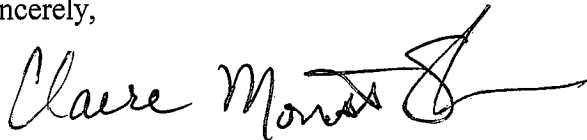
<sup>1</sup>In the submitted request for information, received by the department on June 28, 2010, the requestor contends she previously requested the same information on May 31, 2010. We note regardless of whether the department failed to meet its section 552.301 requirement, sections 552.101 of the Government Code is a mandatory exception that constitutes a compelling reason sufficient to overcome the presumption of openness caused by the failure to comply with section 552.301. *See Gov't Code §§ 552.007, .302, .352.*

subsections 411.00755(b)(1)-(12) or the release provisions listed in subsection 411.00755(c) are applicable. *See* Gov't Code § 411.00755(b)(1)-(12), (c). The information at issue does not contain any of the types of information listed in subsections 411.00755(b)(1)-(12), and the release provisions in subsection 411.00755(c) do not apply. Therefore, pursuant to Open Records Letter No. 2010-12863, the department must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, fact, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan", with a stylized flourish at the end.

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/tp

Ref: ID# 393668

Enc. Submitted documents

c: Requestor  
(w/o enclosures)